

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

UNITED STATES OF AMERICA)
)
 v.)
)
 STUART J. WHITTA)
 _____)

DOCKET NO. 1:16CR7

FACTUAL BASIS

NOW COMES the United States of America, by and through Jill Westmoreland Rose, United States Attorney for the Western District of North Carolina, and hereby files this Factual Basis in support of the plea agreement filed simultaneously in this matter.

This Factual Basis does not attempt to set forth all of the facts known to the United States at this time. This Factual Basis is not a statement of the defendant, and, at this time, the defendant may not have provided information to the United States about the offenses to which the defendant is pleading guilty, or the defendant's relevant conduct, if any.

By their signatures below, the parties expressly agree that there is a factual basis for the guilty plea(s) that the defendant will tender pursuant to the plea agreement. The parties also agree that this Factual Basis may, but need not, be used by the United States Probation Office and the Court in determining the applicable advisory guideline range under the *United States Sentencing Guidelines* or the appropriate sentence under 18 U.S.C. § 3553(a). The defendant agrees not to object to any fact set forth below being used by the Court or the United States Probation Office to determine the applicable advisory guideline range or the appropriate sentence under 18 U.S.C. § 3553(a) unless the defendant's right to object to such particular fact is explicitly reserved below. The parties' agreement does not preclude either party from hereafter presenting the Court with additional facts which do not contradict facts to which the parties have agreed not to object and which are relevant to the Court's guideline computations, to 18 U.S.C. § 3553 factors, or to the Court's overall sentencing decision.

1. On October 12, 2010, Federal Bureau of Investigation (FBI) undercover agents connected to peer to peer user "SJW238gg" via the Internet and downloaded 228 images of child pornography from him. Investigation revealed that "SJW238gg" was in fact STUART J. WHITTA.
2. Based on information developed from this connection, on February 2, 2011, FBI Special Agents executed a search warrant at WHITTA's home located at 238 Brittany Place Drive, Apartment G, Hendersonville, North Carolina, within the Western District of North Carolina.
3. During the search warrant execution, WHITTA agreed to be interviewed. WHITTA informed agents of the following:

- a. He has been downloading child pornography for “many years” and he looks at child pornography daily.
 - b. WHITTA is in fact “SJW238gg.”
 - c. WHITTA possessed thousands of images of child pornography.
 - d. WHITTA’s collection contains children under the age of 12 and sadistic and masochistic depictions of children.
4. Agents seized the following from WHITTA:
 - a. A HP Touchsmart 300 Computer, Serial Number MXU9470RKN.
 - b. A Dell laptop computer, Serial Number: HXZ091J.
 - c. A Dell laptop computer, model PPL 9321C.
 - d. Three External Hard Drives.
 - e. An eMachine 466 Tower computer, Serial Number: QFT01LOO13588.
5. Forensic analysis revealed the following:
 - a. 25,618 images of child pornography.
 - b. 2,876 videos of child pornography.
 - c. Of these, 609 images and 38 videos depicted sadistic and masochistic conduct.
 - d. Of these, 13,466 images and 981 videos depicted children under the age of 12.
6. One image discovered on WHITTA’s computer is entitled “62.jpg.” It depicts a male child approximately seven years of age. The child is holding an adult male’s penis and the adult is urinating into the open mouth of the child.
7. The Internet is a facility of interstate commerce. All of the computers and hard drives were manufactured outside of North Carolina.

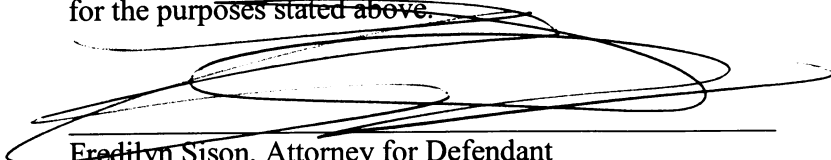
JILL WESTMORELAND ROSE
UNITED STATES ATTORNEY



DAVID A. THORNELOE
ASSISTANT UNITED STATES ATTORNEY

Defendant's Counsel's Signature and Acknowledgment

I have read this Factual Basis, the Bill of Information, and the plea agreement in this case, and have discussed them with the defendant. Based on those discussions, I am satisfied that the defendant understands the Factual Basis, the Bill of Information, and the plea agreement. I hereby certify that the defendant does not dispute this Factual Basis with the exception of those facts to which I have specifically reserved the right to object, and understands that it may be used for the purposes stated above.



Fredilyn Sison, Attorney for Defendant

DATED: 1-11-16